IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

(1) Smt.Radha Devi Vs. The State of Rajasthan
(D.B. CRIMINAL APPEAL NO.66/2002)

(2) Radha Devi Vs. State of Rajasthan
(D.B.CRIMINAL JAIL APPEAL NO.168/2002)

D.B. Criminal Appeal under Section 374(2) Cr.P.C. & D.B. Criminal Jail Appeal against the judgment dt.13.12.2001 passed by the Additional Sessions Judge (Fast Track), Nagaur Sessions Case No.186/2001 (75/1999).

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Date of Judgment: November 06, 2006

P R E S E N T

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE MANAK MOHTA

Mr.M.K.Garg, Mr.Niranjan Singh, for the appellant

Mr.O.P.Rathi, Public Prosecutor

BY THE COURT: **(PER HON'BLE MR.MATHUR J.)**

1. Both these appeals are directed against the judgment of the Additional Sessions Judge (Fast Track), Nagaur dated 13.12.2001 convicting the appellant

Smt.Radha Devi of offence under Section 302 I.P.C. and sentenced to imprisonment for life and to pay a fine of Rs.100/-; in default of payment to further undergo 3 months simple imprisonment.

2. Briefly stated the prosecution case is that on 22.10.99 P.W.4 Bhagat Singh submitted a written report to the S.H.O., Police Station, Deedwana while he was holding Camp at Bhamasi stating inter alia that on receiving an information from P.W.11 Jawahar Lal to the effect that his mother Udi Devi was being killed in the morning at about 9 A.M. by Radha Devi, he rushed to the house and found number of people assembled and in the compound, his mother Udi Devi was lying dead in pool of blood. The appellant Mst. Radha Devi was sitting beside her having blood spots on various parts of her body. A blood-stained Gandasi was lying in the compound. According to the informant a family dispute between Radha Devi and her mother-in-law deceased Udi Devi led to the unfortunate incident. It was also averred that the incident was witnessed by P.W.6 Surendra, his wife P.W.12 Chainsukhi, P.W.19 Deepa Ram Jat and others. On this information, police registered a case for offence under Section 302 I.P.C.

and proceeded with investigation. The dead body was sent for the autopsy. P.W.8 Dr.Mahesh Jha conducted the post-mortem on the dead body of deceased Radha Devi vide Ex.P21 noticing the following injuries:-

(1) Incised wound 2″ x 1″ x 1/4″ on left buttock latera post.

(2) Incised wound 4″ x 1/2″ X 1/4″ - 1″ below injury No.(1).

(3) Incised wound six – 4½″ x 1/10″ x 1/10″ below each other on left thigh post lat. Obliquely placed.

(4) Incised wound 2″ x 1″ x bone deep on right shoulder post.

(5) Incised wound 2″ x 1/2″ x 1/8″ on right pinna post.

(6) Incised wound 1/2″ x 1/4″ whole thickness of right pinna at top.

(7) Incised wound 2″ x 1/2″ x bone deep on right temporal region.

(8) Incised wound 2″ x 1/2″ x skin deep on neck ant below thyroid region. Slightly oblique, letting on left side.

(9) Incised wound 7″ x 1/10″ x 1/10″ from just ant. to left lat. end of Injury No.(8) & tapering ant. to left shoulder.

(10) Incised wounds three – 4″ x 1/8″ x 1/8″ on left parito parietal region. Transversely placed below each other.

(11) Incised wound 6″ x 1″ x bone deep from left cheek (maxillary region) to occipital region, separating lower 2/3rd of ear. At parieto occipital region membrane and gray matter are found exposed & lacerated.

(12) Incised wound – 6” x 1” x bone deep from left angle of mouth to occipital region. Fracture left ramus of mandible & occipital bone deep.

(13) Incised wound 3½” x 1” x bone deep on chin bone found cut at the lobe of left lower tooth.

(14) Incised wound – 3” x 3” x bone deep on top of left shoulder. Skin flap is attached ant.

(15) Incised wound – 1/2” x bone deep on left middle finger dorsally on middle phalanx. Bone found fractured.

(16) Incised wound 1/2” x 1/4” x bone deep on left ring finger dorsally at the base of nail bone is fractured.

3. The police prepared the site-plan and inquest report. The police also collected the blood smeared pieces of floor, controlled pieces of floor and seized blood smeared pieces of bangles, Gandasi. After the post-mortem the blood-stained clothes of the deceased were also seized. The appellant was arrested on the same day vide Ex.P19. Police seized her blood-stained clothes vide Ex.P18. After usual investigation police laid charge-sheet against the appellant for offence under Section 302 I.P.C.

The appellant pleaded not guilty to the charges levelled against her and claimed trial. The prosecution

adduced oral and documentary evidence. The appellant in her statement under Section 313 of the Code of Criminal Procedure denied the correctness of the prosecution evidence appearing against her. The trial court convicted and sentenced the appellant in the manner stated above.

4. Assailing the conviction, it is contended by Mr.Manoj Garg learned counsel for the appellant that none of the witnesses produced by the prosecution as the witnesses of occurrence are credit-worthy. He has read before us the statements of the alleged eye-witnesses namely P.W.6 Surendra, P.W.10 Tulsi Devi, P.W.11 Jawahar Lal, P.W.12 Chain Sukhi, P.W.13 Amri, P.W.14 Smt.Gayatri, P.W.15 Mohini Devi and P.W.19 Deepa Ram. He has made his endeavor to show that none of the witnesses have actually seen the occurrence, as such they are not witnesses of the occurrence. He has also criticised the other incriminating circumstances relied upon by the trial court. On the other hand the learned Public Prosecution has supported the judgment of the trial court.

5. We have carefully gone through the prosecution

evidence and analysed the same. P.W.6 Surendra aged 18 years is the son of the appellant Radha Devi. He stated that at the time of the incident, he was sleeping in the room in the rear side of the house. Hearing the high rise voices, he woke up. He found that his mother Radha Devi carrying a Gandasa in hand was inflicting injuries to his grand-mother. He further stated that the incident was witnessed by Deepa Ram, Amar Devi, Mohani Devi, Tulsi Devi and many other people. On intervention of Deepa Ram, his mother Radha Devi threw the Gandasa. He did not enter in the premises, as he was being stopped by Mohini Devi. He also stated that there used to be quarrel between his mother and the grand-mother. His father had gone abroad for earning. His mother wanted separation in the family, which was not acceptable to his grand mother. According to him, that was the cause of dispute between them. The main criticism levelled against this witness is that he could not have witnessed the incident.

6. The another important witness of the occurrence is P.W.14 Gayatri Devi daughter of the appellant. She stated that on the date of incident her grand-father had

gone to the field. The uncle had gone to Ladnu. The other children in the family were watching TV. A quarrel took place between her mother and the grand mother. Her mother Radha Devi inflicted injuries by Gandasi to her grand-mother. She immediately went to inform to another grand-mother Tulchha Devi. Supriya was sent to inform Amri and Chain Sukhi. All the relatives immediately rushed to the spot. The grand-mother was lying in pool of blood. The mother Radha Devi remained seated beside her. In the cross examination, she admitted that she was student of Nehru Bal Niketan in Village Deedwana. The distance of the School from the place of occurrence is between 7-8 Kms. However, she explained that at the relevant time she was studying in the village. She denied the suggestion that the incident was not witnessed by her. She also denied the suggestion that the place of occurrence could not be witnessed from the kitchen.

7. P.W.10 Tulsi Devi deposed that on the date of occurrence the daughter of Ram Gopal informed that her grand-mother was being assaulted by her mother Radha Devi by inflicting Gandasi Blows. She rushed to the spot and found Mst. Udi lying dead. The appellant

Radha Devi was standing with Gandasi in hand beside her. On persuasion of Deepa Ram, Radha Devi threw the Gandasi and sat down. The statement of P.W.13 Amri Devi is alsmost on the same line.

8. P.W.11 Jawahar Lal deposed that on receiving information from Chain Sukhi he rushed to the spot and found Udi Devi lying dead and appellant Mst.Radha Devi was standing with a Gandasi in hand. He also found Radha Devi's son Surendra on the spot. On persuasion of Deepa Ram, Mst. Radha Devi threw the Gandasi. Similar is the statement of P.W.12 Chain Sukhi. The statement of P.W.15 Mohini Devi is also almost on the same line.

9. P.W.19 Deepa Ram stated that on the date of incident the cries from the house of Bhuwana Ram attracted him. He went to the spot and found that Mst.Udi was lying dead in pool of blood. The appellant Radha Devi was standing with a Gandasi in hand. He persuaded Mst.Radha Devi to cool down and throw the Gandasi. She threw the Gandasi and sat down.

10. There has been lengthy cross examination of each

of the witnesses referred to above, but nothing has been elicited to discredit their testimony. Witnesses P.W.6 Surendra and P.W.14 Gayatri are son and daughter respectively of the appellant. There is no reason to make false statement by them against their own mother. The other witnesses immediately reached on the spot and found the appellant standing with a Gandasi in the hand beside the dead body of Mst. Udi in pool of blood. They also noticed blood on her clothes. This is the relevant fact supporting the evidence of P.W.6 Surendra and P.W.14 Gayatri. Thus, there is overwhelming evidence against the appellant to show that she killed Mst.Udi by inflicting Gandasi blows. The statements of these witnesses also find corroboration from medical evidence and other incriminating circumstances. The clothes of the appellant were seized vide Ex.P18. As per the FSL report Ex.P27, they were stained with human blood. The appellant has failed to give any explanation as to the presence of human blood on her clothes. Thus, we are of the view that the trial court has rightly convicted the appellant Radha Devi of offence under Section 302 I.P.C. having found the charge proved against her of committing the murder of Udi Devi.

11. In view of the aforesaid, we find no merit in both these appeals and the same stand dismissed. The appellant is in Jail. She will serve out the remaining part of the sentence.

(MANAK MOHTA) J. **(N.N.MATHUR), J.**

BKS/-